

Appl. No. 09/832,679  
Amdt. dated April 12, 2005  
Reply to Office Action of December 20, 2004

PATENT

**REMARKS/ARGUMENTS**

Claims 1-61 remain pending in the application and are presented for reconsideration and allowance.

**Discussion of Rejections Under 35 USC §102(e)**

Claims 1-5, 7-13, 17, 19, 22-24, 30-34, 36-43, 47, 49, and 52-54 were rejected under 35 USC §102(e) as allegedly anticipated by published U.S. Patent Application No. 2002/0172191 to Harrison (hereinafter Harrison).

Applicant respectfully traverses the rejection. The Harrison reference has a U.S. filing date that can be as early as its PCT filing date. The front page of the Harrison publication indicates that the PCT filing date is June 13, 2001.

In contrast, as indicated on Applicant's filing receipt and referenced in the first paragraph of Applicant's specification, the application claims the benefit of 60/256,158 filed December 15, 2000. Therefore, Applicant's filing date predates the U.S. filing date of the Harrison reference, and thus, the Harrison reference is not a prior art reference. As stated in MPEP 2136.03, "Foreign applications' filing dates that are claimed (via 35 U.S.C. 119(a)-(d), (f) or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S. may not be used as 35 U.S.C. 102(e) dates for prior art purposes." (*emphasis in original*).

Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 USC §102(e) because Harrison is not a prior art reference.

**Discussion of Rejections Under 35 USC §103(a)**

Claims 6, 14-16, 18, 20, 21, 25-29, 35, 44-46, 48, 50, 51, and 55-61 were rejected under 35 USC §103(a) as allegedly unpatentable over Harrison in view of one or more of published U.S. Patent Application No. 2003/0157926 to Ara-Laurila et al. (hereinafter Ara-Laurila), published U.S. Patent Application No. 2004/0054902 to Fujimoto et al. (hereinafter Fujimoto), and U.S. Patent No. 6,233,234 to Curry et al. (hereinafter Curry).

As noted earlier, Harrison is not prior art over Applicant's application. Similarly, the Ara-Laurila and Fujimoto references are not prior art over Applicant's application. The Ala-

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Laurila PCT filing date is March 23, 2001, which is later than Applicant's date of December 15, 2000 for which the benefit is claimed. Similarly, the Fujimoto reference has a PCT filing date of December 3, 2001, which is nearly one year later than the date that Applicant claims the benefit of. Therefore, neither Ala-Laurila nor Fujimoto are prior art references over Applicant's application.

The Examiner has provided no indication that the claims are anticipated or otherwise obvious in light of the Curry reference alone. Therefore, Applicant respectfully requests reconsideration and allowance of claims 6, 14-16, 18, 20, 21, 25-29, 35, 44-46, 48, 50, 51, and 55-61 because the Harrison, Ala-Laurila, and Fujimoto references are not prior art references and the Examiner provided no indication that the claims are anticipated or obvious in light of the Curry reference applied individually.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



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